UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,102	04/24/2001	John D. DeTreville	MS1-718US	1064

22801 7590 09/20/2005

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

EXAMINER	
HENNING, MATTHEW T	
ART UNIT	**PAPER NUMBER**
2131	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/843,102	DETREVILLE, JOHN D.	
	Examiner	Art Unit	
	Matthew T. Henning	2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 June 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17 and 20-52* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17 and 20-52* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 April 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

This action is in response to the communication filed on 6/28/2005.

DETAILED ACTION

Response to Arguments

Applicant argues primarily that:

a. van Zoest in view of Cooper does not disclose an output controller to render the content if the comparator indicates the content does not match any of the highly compressed content pieces, because the certificates of Cooper and the content pieces of van Zoest are two different things.

b. It would be nonsensical to check for a valid license in van Zoest once it has been determined that the user is in possession of a copy of the content.

Regarding applicant's argument a. that the certificates of Cooper and the content pieces of van Zoest are two different things, the examiner has considered the argument and has not found it persuasive. Paragraphs 0263-0267 of Cooper clearly shows that the content being checked has been uniquely embedded with the digital certificate identification number. As such, it is the watermarked content that is being checked. Therefore, it would have been obvious to combine the content checking system of Cooper with the content checking system of van Zoest for the reasons provided in the office action dated 3/28/2005. Therefore, the examiner does not find the argument persuasive and has therefore maintained the rejections in view of the combination of van Zoest and Cooper.

Regarding applicant's argument b. that it would be nonsensical to check for a valid license in van Zoest once it has been determined that the user is in possession of a

copy of the content, the examiner has considered the argument and does not find the argument persuasive. Col. 3 Lines 8-45 of Fucarile clearly teaches that mere possession of content is not enough to authorize access to the content and provides a means utilizing the checking and validation of licenses in the content. Therefore, it would not have been nonsensical to check for a valid license once it was determined in van Zoest that the user possessed the content. This would have protected against illegal copying of the content, as taught by Fucarile. Therefore, the examiner does not find the argument persuasive and has maintained the rejections in view of the combination of van Zoest and Fucarile.

All rejections and objections not specifically set forth below have been withdrawn.

Claims 18-19 and 53-57 have been cancelled.

Claims 1-17, and 20-52 have been examined.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-8, 11-15, 29-36, and 38-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over van Zoest et al. (US Patent Number 6,496,802) hereinafter referred to as van Zoest, and further in view of Cooper et al. (US Patent Application Publication 2001/0051996) hereinafter referred to as Cooper.

Regarding claim 1 van Zoest disclosed a system comprising: a source database (See van Zoest Fig. 1 Element 135) storing a plurality of highly compressed content pieces (See van Zoest Col. 8 Paragraph 3 and Col. 7 Paragraph 6); and a content player (See van Zoest Fig. 11), coupled to the source database (See van Zoest Col. 18 Paragraphs 4-5, Col. 19 Paragraph 1, and Col. 11 Paragraphs 2-3), including, an interface to receive a subset of the plurality of highly compressed content pieces from the source database (See van Zoest Col. 11 Paragraph 3), a storage device to store the subset (it was inherent that when the content was downloaded it was stored in order to play the content as disclosed above), a comparator to compare the subset to content and determine whether the content matches any of the plurality of highly compressed content pieces in the subset (See van Zoest Col. 5 Paragraph 3 Lines 7-12), and a resolver to take particular action in response to the comparator indicating the content matches one of the plurality of highly compressed content pieces in the subset (See van Zoest Col. 5 Paragraph 3 Lines 1-6, and 12-15), but van Zoest failed to disclose an output controller to render the content if the comparator indicated the content did not match any of the highly compressed content pieces in the subset.

Cooper teaches that in a content providing system, in order to protect against the use of copied content, a comparison should be made with all the content currently being played by other users and playing the content if no match is found (See Cooper Paragraph 0124).

It would have been obvious to the ordinary person skilled in the art at the time of invention to employ the teachings of Copper in the content providing system of van Zoest by comparing the content of the user with the content being played by other users and playing the content if no match was found. This would have been obvious because the ordinary person

skilled in the art would have been motivated to provide protection against the use of duplicated content.

Claim 2 recites that the comparator is to compare the subset to content being played by the content player (See van Zoest Col. 15 Paragraph 4 and Col. 16 Paragraphs 3-4).

Claim 3 recites that the content player is coupled to the source database via the Internet (See Van Zoest Col. 19 Paragraph 2).

Claims 4-6 recite that the plurality of highly compressed content pieces comprise a plurality of highly compressed audio, video, and audio/video pieces (See van Zoest Col. 5 Paragraph 2).

Claim 7 recites that the interface is further to subsequently communicate with the source database, retrieve a new subset of the plurality of highly compressed content pieces from the source database, and replace the subset in the storage device with the new subset (See van Zoest Col. 2 Paragraph 5 wherein it was disclosed that the content was streamed to the user and it was therefore inherent that the newly streamed data replaced the older streamed data).

Claim 8 recites a content source coupled to the content player, and wherein the content player further comprises a compressor to receive content from the content source, generate a highly compressed content piece based on the received content, and add the generated highly compressed content piece to the subset in the storage device (See van Zoest Col. 15 Paragraph 2 wherein the user uploads the content to the server, and Col. 7 Paragraph 6).

Claim 11 recites that the storage device is further to store the content (See van Zoest Col. 5 Paragraph 5).

Claim 12 recites a content source, coupled to the content player, from which the content is received (See Van Zoest Fig. 1 Element 150 and Col. 6 paragraph 3).

Claim 13 recites that the content player receives the content from the content source in its entirety before playback of the content begins (See van Zoest Abstract wherein it was disclosed that the content was downloaded).

Claim 14 recites that the comparator determine whether the content matches any of the plurality of highly compressed content pieces in the subset by comparing a first set of feature values associated with each of the plurality of highly compressed content pieces with a second set of feature values associated with the content, and checking whether at least a threshold number of the first set of feature values is within threshold distance of is to the second set of feature values (See van Zoest Figures 5-6 and Col. 15 Paragraph 2).

Claim 15 recites that the first set of feature values and the second set of feature values each comprises a set of audio energy features (See van Zoest Figures 5-6 and Col. 16 Paragraph 2).

Claim 29 is rejected for the same reasons as claim 1 above.

Regarding claim 30, van Zoest and Cooper disclosed the media being a song (See van Zoest Col. 2 Paragraph 2).

Regarding claim 31, van Zoest and Cooper disclosed the media being a movie (See van Zoest Col. 2 Paragraph 2).

Claim 32 is rejected for the same reasons as claim 2 above.

Claim 33 is rejected for the same reasons as claim 1 above.

Claim 34 is rejected for the same reasons as claim 1 above.

Claim 35 is rejected for the same reasons as claim 7above.

Claim 36 is rejected for the same reasons as claim 8 above.

Claims 38 and 39 are rejected for the same reasons as claims 14 and 15 above.

Claim 40 is rejected for the same reasons as claim 1 above and further because van Zoest and Cooper disclosed the use of software to accomplish these tasks (See van Zoest Col. 13 Paragraph 6).

Claim 41 is rejected for the same reasons as claim 1 above.

Claim 42 is rejected for the same reasons as claim 7 above.

Claim 43 is rejected for the same reasons as claim 1 above.

Claim 44 is rejected for the same reasons as claim 8 above.

Claim 45 is rejected for the same reasons as claim 11 above.

Claim 46 is rejected for the same reasons as claims 1 and 15 above.

Claim 47 is rejected for the same reasons as claims 4-6 above.

Claim 48 is rejected for the same reasons as claim 1 above.

Claim 49 is rejected for the same reasons as claim 7 above.

Claim 50 is rejected for the same reasons as claim 8 above.

Claim 51 is rejected for the same reasons as claim 14 above.

Claim 52 is rejected for the same reasons as claim 15 above.

Claims 9-10, 16-17, 20-28, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over van Zoest, and further in view of Fucarile et al. (US Patent Number 6,766,305) hereinafter referred to as Fucarile.

Regarding claim 9 van Zoest disclosed a system comprising: a source database (See van Zoest Fig. 1 Element 135) storing a plurality of highly compressed content pieces (See van Zoest Col. 8 Paragraph 3 and Col. 7 Paragraph 6); and a content player (See van Zoest Fig. 11), coupled to the source database (See van Zoest Col. 18 Paragraphs 4-5, Col. 19 Paragraph 1, and Col. 11 Paragraphs 2-3), including, an interface to receive a subset of the plurality of highly compressed content pieces from the source database (See van Zoest Col. 11 Paragraph 3), a storage device to store the subset (it was inherent that when the content was downloaded it was stored in order to play the content as disclosed above), a comparator to compare the subset to content and determine whether the content matches any of the plurality of highly compressed content pieces in the subset (See van Zoest Col. 5 Paragraph 3 Lines 7-12), and a resolver to take particular action in response to the comparator indicating the content matches one of the plurality of highly compressed content pieces in the subset (See van Zoest Col. 5 Paragraph 3 Lines 1-6, and 12-15), but van Zoest failed to disclose that the storage device is further to store a plurality of licenses identifying content that a user of the content player is authorized to playback, and wherein the particular action comprises the resolver checking whether one of the plurality of licenses corresponds to the content.

Fucarile teaches that in a content player, the content should contain a license which can be checked against a license server in order to verify proper access rights to the content (See Fucarile Summary of the Invention).

It would have been obvious to the ordinary person skilled in the art at the time of invention to employ the teachings of Fucarile in the content providing system of Cooper by verifying a license for the content once the content was identified. This would have been

obvious because the ordinary person skilled in the art would have been motivated to provide protection against illicit copies of the content.

Claim 10 recites that the plurality of highly compressed content pieces in the subset further indicates whether one of the plurality of licenses is required for playback of the content (See van Zoest Col. 11 Paragraph 5).

Claim 16 is rejected for the same reasons as claim 9 above.

Claim 17 recites that the comparator is to compare the subset to content being played by the system (See van Zoest Col. 15 Paragraph 4 and Col. 16 Paragraphs 3-4).

Claim 20 recites that the memory is further to store the content (See van Zoest Col. 5 Paragraph 5).

Regarding claim 21 and 22, van Zoest and Fucarile disclosed acquiring content from CDs (See van Zoest Col. 6 Paragraph 3 and Fig. 1).

Claim 23 is rejected for the same reasons as claim 9 above.

Claim 24 recites a compressor, coupled to the memory, to receive content and generate the one or more highly compressed content pieces (See van Zoest Col. 15 Paragraph 2 wherein the user uploads the content to the server, and Col. 7 Paragraph 6).

Claim 25 recites that the comparator determine whether the content matches any of the plurality of highly compressed content pieces in the subset by comparing a first set of feature values associated with each of the plurality of highly compressed content pieces with a second set of feature values associated with the content, and checking whether at least a threshold number of the first set of feature values is within threshold distance of is to the second set of feature values (See van Zoest Figures 5-6 and Col. 15 Paragraph 2).

Claim 26 recites that the first set of feature values and the second set of feature values each comprises a set of audio energy features (See van Zoest Figures 5-6 and Col. 16 Paragraph 2).

Regarding claim 27, van Zoest disclosed the players being portable (See van Zoest Col. 4 Paragraph 1).

Claim 28 is rejected for the same reasons as claim 10 above.

Claim 37 is rejected for the same reasons as claim 9 above.

Conclusion

Claims 1-17, and 20-52 have been rejected.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew T. Henning whose telephone number is (571) 272-3790. The examiner can normally be reached on M-F 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Primary Examiner
AU 2131
9/14/05

Matthew Henning
Assistant Examiner
Art Unit 2131
3/24/2005